

HCS HB 1837 -- MALPRACTICE INSURANCE

SPONSOR: Yates

COMMITTEE ACTION: Voted "do pass" by the Committee on Insurance Policy by a vote of 14 to 0.

This substitute changes the laws regarding malpractice insurance. The substitute:

- (1) Allows limited liability companies, corporations, limited liability partnerships, partnerships, and other entities formed for the practice of law or medicine to become members of an association providing malpractice insurance to its members;
- (2) Makes associations writing malpractice insurance subject to reporting, notification, and rating requirements;
- (3) Requires the Director of the Department of Insurance to submit an annual report to the General Assembly regarding the actual and base rates charged for malpractice insurance and any changes from the previous year's rates;
- (4) Requires insurers writing medical malpractice insurance to Missouri health care providers to submit an annual report by June 1 of each year containing policy information including the following:
  - (a) Number of policies written, canceled, renewed, and not renewed;
  - (b) Total premiums collected and losses paid; and
  - (c) Claims pending, paid, and closed;
- (5) Requires insurers to report to the director and the appropriate licensing board any malpractice claims paid;
- (6) Specifies that any malpractice insurer failing to report required claims information in a timely manner will be subject to penalties applicable to insurance companies under Section 374.215, RSMo;
- (7) Removes the 30-day period the director has to approve a malpractice insurance policy to be used by an association;
- (8) Requires the surcharge paid to the association by policyholders in the first year to be paid in the form of cash or cash equivalent and not in the form of a promissory note;

(9) Prohibits medical malpractice insurers from charging rates that are excessive, inadequate, or unfairly discriminatory. Rates will be based upon Missouri loss experience only, not experience from other states unless the failure to do so will jeopardize the financial stability of the insurer;

(10) Allows insurers to charge an additional premium surcharge or discount based on the health care provider's loss experience, training, and other factors;

(11) Specifies that no insurer can increase malpractice insurance rates by more than 25% or refuse to renew a policy without at least 60 days' written notification. Insurers cannot cease issuing policies in this state without 180 days' written notice to the insured and the director. If an insurer fails to give notice, the policyholder has the right to continue coverage under the policy;

(12) Requires, by June 30, 2007, the department to establish risk-reporting categories by physician specialty for medical malpractice insurance base rates. Annually, insurers will report actual rates charged including assessments for each risk-reporting category. The department will annually publish a report containing market rates reflecting the median actual rates charged for each risk-reporting category;

(13) Defines "base rate" and "schedule rating or individual risk rating credits or debits";

(14) Allows the department to establish reporting standards for premiums received and policies written by category. The department will publish this information in a manner appropriate for assisting insurers in developing future base rates;

(15) Establishes penalty provisions for violations of Sections 383.100 - 383.125 and Sections 383.302 - 383.312; and

(16) Requires, by January 1, 2011, all insurers writing medical malpractice insurance to offer policies which will apply to injuries resulting from acts or omissions occurring during the policy period, regardless of the timing of the filing of a claim.

FISCAL NOTE: No impact on General Revenue Fund in FY 2007, FY 2008, and FY 2009. Estimated Cost on Other State Funds of \$123,563 in FY 2007, \$120,524 in FY 2008, and \$123,555 in FY 2009.

PROPOSERS: Supporters say that the bill will help decrease the cost of medical malpractice insurance. Doctors are leaving the state because of the high cost of insurance. Reporting and

publishing of the rates companies charge will help consumers to be informed and shop around for insurance. It will also help to increase competition.

Testifying for the bill were Representative Yates; Lancer Gates, D.O.; Missouri State Medical Association; Missouri Academy of Family Physicians; Missouri Doctors Mutual Insurance Company; and Missouri Association of Osteopathic Physicians and Surgeons.

OPPONENTS: Those who oppose the bill say that there are too many reporting requirements. Tort reform is already helping to stabilize the market and to increase competition. The bill will force rate increases. No one will enter a market that is over regulated. If Missouri's rates are so high, wouldn't the use of other state's claims experience make sense.

Testifying against the bill were the Missouri Insurance Coalition; and American Insurance Coalition.

OTHERS: Others testifying on the bill say the data collection portion of the bill is very important. The department could absorb the additional cost of this data collection. Competition promotes fair rates.

Others testifying on the bill were Missouri Physicians Mutual; and Department of Insurance.

Marc Webb, Legislative Analyst